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Federal Communications Commission
Attn: WC Docket No. 18-213
445 12th St., SW, Room TX-A325
Washington, DC 20554

Response submitted via *http://fjallfoss.fcc.gov/ecfs2/*

Re: WC Docket. No. 18-213, Promoting Telehealth for Low-Income Consumers

Chairman Pai and Commissioners:

On behalf of Legacy Community Health ("Legacy"), I appreciate the opportunity to respond to the above-referenced Proposed Rule issued by the Federal Communications Commission ("FCC") on July 30, 2018, and published at WC Docket. No. 18-213. The comments below address the portion of the Proposed Rule regarding medical licensing laws or regulations, or medical reimbursement laws or regulations that would have bearing on how the Commission structures the Pilot Program.

Background on Legacy Community Health

Legacy is a Federally Qualified Health Center (FQHC) based in Houston, Texas. As a recipient of federal health center grant funds under Section 330 of the Public Health Service Act ("Section 330 grantee"), Legacy is required to provide its patients with a full range of primary and preventive services, as well as services that enable patients to access health care appropriately. Legacy provides adult primary care, pediatric care, dental care, vision services, behavioral health services, OB/GYN and maternity services, and a wide array of preventive services to underserved communities across Southeast Texas. Legacy has 34 widely dispersed FQHC sites across the state, and we continually identify unmet needs in health-related services in our patient populations. We have identified telehealth and telemedicine as one of our unmet needs.

Legacy is required, as a Section 330 grantee, to offer services to all persons, regardless of the person's ability to pay; to charge no more than a nominal fee to patients whose incomes are at or below 100% of the Federal Poverty Level; and to use a sliding fee discount schedule for individuals whose income is between 101 and 200% of the Federal Poverty Level. Presently, more than 60% of our patients live at or below 100% of the federal poverty level.

Remote patient care is uniquely important to Legacy for two main reasons. First, the ability to treat and/or evaluate patients on a remote basis allows Legacy to use its practitioners (particularly psychiatrists) to serve patients in more remote sites and in regions where it is challenging to recruit providers.

Second, remote care enhances our ability to serve patients with complex needs. For example, Legacy provides comprehensive HIV/AIDS care and behavioral health services for individuals with significant comorbidities, as well as other targeted care for chronically ill individuals. In

recent years, Legacy has expanded its behavioral health services and developed a diabetes management initiative. In treating patients with complex needs, Legacy seeks to implement a holistic and patient-centered approach that can be best achieved using a combination of remote and face-to-face contacts.

Although FQHCs are well-positioned to participate in the Connected Care Pilot Program's stated goal of supporting "the delivery of …telehealth services to low-income Americans"[1], existing Medicare and Medicaid limitations on the use of telehealth services for FQHCs is an obstacle to providing this important service.

Comments on the Proposed Rule

General Comment

Legacy applauds the FCC for creating an experimental "Connected Care Pilot Program". We appreciate the FCC's commitment to supporting broadband connectivity for those facing barriers to high-quality health care and maximizing the benefits of telehealth for all Americans through enhanced digital access. FQHCs often need to use remote technologies to fulfill their mission of furnishing a comprehensive array of services to patients in medically underserved areas. This need is particularly acute in light of the increasingly complex nature of the care furnished by FQHCs such as Legacy, as well as the provider shortages prevalent in FQHCs' service areas.

Telemedicine enables providers to furnish quality care at a lower cost. Effective use of these strategies may also promote successful participation in value-based payment systems. FQHCs are critical players in delivery system and payment reforms. Medicare and other payors should take care not to erect barriers to FQHCs incorporating the same types of patient communication strategies that other types of providers increasingly rely on.

Comment on 18. Other Program Structure Considerations. The Commission seeks comment on whether there are any medical licensing laws or regulations, or medical reimbursement laws or regulations that would have bearing on how the Commission structures the Pilot Program. If so how would those specific laws or regulations impact the Pilot program, and how should the Commission design the structure of the Pilot program in light of those impacts?

Health centers are not eligible to receive reimbursement as distant site providers under Medicare rules and regulations. Allowing health centers to serve as a distant site, as well as an originating site, will allow FQHCs to serve the patients this Pilot program aim to serve. [2] Legacy urges the FCC to encourage CMS to revise its definition of an FQHC "visit" (42 C.F.R. § 405.2463) to recognize FQHC visits using synchronous telehealth technology. Currently, the regulation provides that an FQHC visit is a "face-to-face encounter" between an FQHC patient and one of several listed types of core FQHC providers. CMS should define the phrase "face-to-face," as

[1] https://docs.fcc.gov/public/attachments/DOC-353231A1.pdf

[2] https://www.nachc.org/wp-content/uploads/2018/04/Telehealth-and-Health-Centers-4.18.pdf

used in the regulation, to include both in-person encounters and those using synchronous video technology. We do not believe there is any statutory impediment to CMS clarifying the "visit" definition in this manner, and such a revision would be consistent with evolving standards of care.

Alternatively, we urge the Commission to coordinate with CMS to allow FQHCs to serve as both the distant site and patient site, either through a Memorandum of Understanding or other means, to implement reforms to reimbursement policies for telehealth.

To give you an example of how Legacy would use telemedicine, we would like to offer services from site to site within our network of facilities. For instance, we have had a very hard time hiring a psychiatrist at our Beaumont location. If we could use telemedicine to see patients in our Beaumont clinic, and use our psychiatrist at our Houston location, we could provide patients with the care they need immediately, instead of having our physicians driving between locations to provide these services, which delays care. We would also use telemedicine and telehealth services in our school clinics to connect the families we serve to a broader range of services that we offer at our larger facilities.

Again, Legacy applauds the FCC for creating the "Connected Care Pilot Program" and we encourage the Commission to work with CMS to ensure FQHCs can offer telemedicine and telehealth as a reimbursable service. Thank you for considering these comments.

Sincerely,

Katy Caldwell
CEO